



## PLANNING COMMITTEE – 8TH SEPTEMBER 2021

**SUBJECT: TREE PRESERVATION ORDER 91 (2021) - LAND WITHIN THE CURTILAGE OF 60 PARK ROAD, BARGOED**

**REPORT BY: HEAD OF REGENERATION AND PLANNING**

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### **1. PURPOSE OF REPORT – TPO 91 (2012) LAND WITHIN THE CURTILAGE OF 60 PARK ROAD BARGOED**

- 1.1 A Tree Preservation Order (TPO) was placed on a single birch tree within the curtilage of 60 Park Road, Bargoed on 24<sup>th</sup> March 2021 at the request of the tree owner, in response to the threat of damage to the tree by neighbouring residents. A plan is attached showing the location of the TPO at Appendix 1.

### **2. SUMMARY**

- 2.1 TPOs are made on a provisional basis to allow landowners and others to comment before they are confirmed by the Local Planning Authority. Twenty-eight days are usually given for comment. Objections were received within date in two emails. These have had a formal response, set out below.

### **3. RECOMMENDATIONS**

- 3.1 This report seeks to Confirm the TPO with no amendments.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 This committee is taking place within the six-month period allowed for confirmation of the TPO. This period will end on 24<sup>th</sup> September 2021 at which time the tree will either have confirmed status or will have no formal protection and the paperwork removed from the system.

### **5. THE REPORT**

- 5.1 The sections in bold summarise the query or objection from the residents at No 62 Park Road, followed by the response provided to them.

#### **“Why a TPO and why in a private garden?”**

Local Planning Authorities may make a TPO if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands

in their area' In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape.

Tree Preservation Orders are placed, as appropriate, on privately owned trees or woodland. Those held by public bodies such as Local Government or Crown Estate are deemed to be at less risk of bad management practices that would threaten their health and amenity value. It is entirely appropriate, therefore, to place a TPO on a tree in the garden of a terraced property.

The tree was assessed by an experienced and qualified Arboriculturist and found to be in good condition, with a retention span in excess of 40 years. It is visible from a number of streets and therefore provides visual amenity to those who use the streets as well as those whose gardens are backing on to this urban area.

#### **“What is the threat to the tree?”**

It may be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate. In this instance, the threat to the amenity value of the tree was deemed to be foreseeable. It was understood that the tree was likely to be cut back to the boundary, in an unsympathetic manner that was likely to significantly impact the amenity value of the tree in terms of its aesthetics and inflict unnecessarily excessive wounds on the tree with the likelihood of colonisation by decay fungi that could hasten the demise of the tree.

#### **“What is the significant public amenity value?”**

Caerphilly County Borough Council Arboricultural officers use an industry wide, standardised method for assessing amenity when looking at trees for TPO worthiness. The system is called TEMPO – Tree Evaluation Method for Preservation Orders. The system is acknowledged to be sound and defensible in its approach and is used across the United Kingdom.

The TEMPO assessment breaks down amenity into 4 parts: Condition; Retention span; Relative public visibility; and Other factors, such as commemorative trees or elements within an avenue etc.

The tree was assessed by an experienced and qualified Arboriculturist and found to be in good condition, with a retention span in excess of 40 years. It is visible from the public highway and is also visible from a number of properties on neighbouring streets and, therefore, provides visual amenity to those who use the streets as well as those whose gardens are backing on to this urban area. No “other” factors were found in relation to this tree.

#### **“Significant low branch over garden is a hazard to residents at 62 Park Road”**

The neighbour residing at the property where the branch overhangs can ask the tree owner to manage the overhanging branch, so that it is above a height that can cause injury or obstruction. The tree owner will need to apply to the Local Planning Authority for prior written consent to undertake pruning work, which must be in accordance with industry best practice for tree work.

Such work takes into account the size and number of pruning cuts that a tree can tolerate and adapt to. This will vary according to genus and species, as well as existing growing conditions and time of year. Once the owner has written consent for the work, he or his arborist may need to access the tree from outside his garden to undertake the necessary work.

On the other hand, the residents at 62 Park Road can apply for prior written consent to undertake work to the tree themselves (or an experienced arborist on their behalf) if the owner at 60 Park Road refuses to take action. The tree owner is not legally obliged to carry out pruning maintenance to their tree, although they are advised to if there is a significant or reasonably foreseeable hazard or legal nuisance. Explicit written Planning consent will be required before any pruning work is undertaken to the tree. Without explicit written prior consent the pruning act will be illegal and the perpetrator can be pursued through the Magistrate's Court.

### **“The height of the tree has now become a health and safety issue”**

There is no legislation relating to the height of trees. Fear of large trees is usually perceived, not actual: statistically trees are very safe. The Health and Safety Executive state that “*the risk of being struck and killed by a tree or branch falling is extremely low (in the order of one in 10 million for those trees in or adjacent to areas of high public use)*”. It is unlikely that a tree will cause harm just because it is tall. Trees have evolved over millennia to thrive and survive in all types of adverse conditions. They are bio-mechanically equipped by nature to cope with wind loading. The tree should move and flex with the wind. Seeing it moving does not mean an increased likelihood of failure.

It is important though, that owners of large trees near any potential target, arrange for periodic inspections by suitably qualified arborists, and that any necessary maintenance is arranged accordingly, and if protected by a TPO, with prior written consent.

Regarding this particular Birch tree, the inspecting officer's original observations regarding this tree included that it is in good condition, with no significant defects. If defects were present that might warrant remedial crown reduction surgery (to reduce the tree's size owing to a structural or other significant defect) then this would have been advised to the tree owner - but none were found.

Also, the tree owner brought this tree's potential amenity value (and possible suitability for a TPO) to our attention, following a consultation with their own privately engaged tree surgery contractor (a local reputable contractor, whose arboricultural opinion is respected by this authority). That same contractor also found no significant defects to be present that might warrant extensive pruning or remedial tree surgery.

It is accepted, and expected, that periodic pruning of this tree will be necessary - possibly perhaps every three to five years. As with any tree overhanging an adjacent property, it is reasonable to expect that occasional pruning of the lowermost branches which overhang an adjacent property, or the removal from the canopy of naturally occurring minor dead wood, will be necessary. **Those types of maintenance will not be prevented by the TPO.** The TPO's existence, though, will ensure that any future maintenance to the tree will be appropriate, not excessive or unnecessarily disfiguring and will not significantly diminish the amenity value that it presents to the wider community.

If at any time in the future the tree was found to be either dangerous, or significantly diseased; or that it was the direct cause of actual damage to an adjacent property, then an application to remove the tree or the relevant part of the tree concerned, or to cut them back so as to abate a particular problem, would be given the fullest consideration at that time.

## 5.2 **Conclusion**

Confirming a TPO on this tree will encourage continued good management in accordance with good arboricultural practice, retaining a visual amenity in good health for the benefit of current and future residents within this community in Bargoed.

## 6. **ASSUMPTIONS**

6.1 None

## 7. **SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

7.1 None

## 8. **FINANCIAL IMPLICATIONS**

8.1 None

## 9. **PERSONNEL IMPLICATIONS**

9.1 None

## 10. **CONSULTATIONS**

10.1 Not applicable

## 11. **STATUTORY POWER**

11.1 The Town and Country Planning Act 1990 as amended and related acts and statutes.

## 12. **URGENCY (CABINET ITEMS ONLY)**

12.1 N/A

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Background Papers: None

Appendices:

Appendix 1 Location plan

Appendix 2 Model order TPO 91 (2021) Land within the curtilage of 60 Park Road, Bargoed